

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

**MICHAEL DONOGHUE and PREMIUM
MORTGAGE CORPORATION,**

PLAINTIFF,

v.

**CYNTHIA NOSTRO, DYLAN RANDALL, DAVID
POPHAM AND EVERETT FINANCIAL, INC.
D/B/A SUPREME LENDING,**

DEFENDANT.

NOTICE OF CROSS-MOTION

**Civil Action No.:
20-cv-06100-EAW-MJP**

PLEASE TAKE NOTICE that upon the annexed Declaration and Affirmation of Good Faith of Anna S. M. McCarthy, Esq. in Response to Plaintiffs' Motion to Compel and in Support of the Individual Defendants' Cross-Motion to Compel, dated May 30, 2022, and supporting Memorandum of Law, dated May 30, 2022, together with all exhibits thereto, Individual Defendants Cynthia Nostro, Dylan Randall, and David Popham will cross-move this Court before the Honorable Magistrate Judge Mark W. Pedersen, in the United States District Court, Western District of New York, 100 State Street, Rochester, New York 14614, at a date, place, and time to be determined by the Court for an Order pursuant to Rule 37(a) of the Federal Rules of Civil Procedure, (a) compelling the Plaintiffs to provide complete responses to the Individual Defendants' requests for financial and performance-related information where such information is relevant to the Plaintiffs' specific claims of lost profits; (b) compelling Donoghue to submit any electronic devices, which might have been used to communicate with or about the Individual Defendants, for a forensic review, at the Plaintiffs' expense; and (c) granting such other and further relief as this Court deems just, equitable and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to the Order of the Court, Plaintiffs' Response Papers, if any, shall be filed and served by July 1, 2022. The Individual Defendants Cynthia Nostro, Dylan Randall, and David Popham reserve the right to file and serve reply papers by July 15, 2022, in accordance with the Order of the Court.

Dated: May 30, 2022
Rochester, New York

HARTER SECREST & EMERY LLP

By: /s/ Jeffrey J. Calabrese

Jeffrey J. Calabrese, Esq.
Anna S. M. McCarthy, Esq.
*Attorneys for Defendants Cynthia Nostro,
Dylan Randall and David Popham*
1600 Bausch and Lomb Place
Rochester, New York 14604
Tel: (585) 232-6500
jcalabrese@hselaw.com
amccarthy@hselaw.com

To:
Sharon Stiller, Esq.
Maureen T. Bass, Esq.
Abrams Fensterman
Attorneys for Plaintiffs
160 Linden Oaks, Suite E
Rochester, New York 14625
Tel: 585-218-9999
Email: sstiller@abramslaw.com
mbass@abramslaw.com

Steven E. Cole, Esq.
Erin Flynn Casey
Adams Leclair LLP
*Attorneys for Everett Financial, Inc.
d/b/a Supreme Lending*
28 East Main Street
Suite 1500
Rochester, New York 14614
Tel: 585-327-4108
Email: scole@adamsleclair.law
ecasey@adamsleclair.law